

Order

Michigan Supreme Court
Lansing, Michigan

June 28, 2005

Clifford W. Taylor
Chief Justice

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman
Justices

ADM File No. 2004-46

Amendment of
Rule 7.211 of the
Michigan Court Rules

On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following amendment of Rule 7.211 of the Michigan Court Rules is adopted, effective September 1, 2005.

[Additions are indicated below in underlining.]

Rule 7.211 Motions in Court of Appeals

(A)-(B) [Unchanged.]

(C) Special Motions. If the record on appeal has not been sent to the Court of Appeals, except as provided in subrule (C)(6), the party making a special motion shall request the clerk of the trial court or tribunal to send the record to the Court of Appeals. A copy of the request must be filed with the motion.

(1)-(8) [Unchanged.]

(9) Motion to Seal Court of Appeals File in Whole or in Part.

- (a) Trial court files that have been sealed in whole or in part by a trial court order will remain sealed while in the possession of the Court of Appeals. Public requests to view such trial court files will be referred to the trial court.
- (b) Materials that are subject to a protective order entered under MCR 2.302(C) may be submitted for inclusion in the Court of Appeals file in sealed form if they are accompanied by a copy of the protective order. A party objecting to such sealed submissions may file an appropriate motion in the Court of Appeals.
- (c) Except as otherwise provided by statute or court rule, the procedure for sealing a Court of Appeals file is governed by MCR 8.119(F).

- (d) Any party or interested person may file an answer in response to a motion to seal a Court of Appeals file within 7 days after the motion is served on the other parties, or within 7 days after the motion is filed in the Court of Appeals, whichever is later.
- (e) An order granting a motion shall include a finding of good cause, as defined by MCR 8.119(F)(2), and a finding that there is no less restrictive means to adequately and effectively protect the specific interest asserted.
- (f) An order granting or denying a motion to seal a Court of Appeals file in whole or in part may be challenged by any person at any time during the pendency of an appeal.

Staff Comment: The September 1, 2005, amendment of MCR 7.211(C) creates new subrule (9) to clarify the procedure for motions to seal Court of Appeals files and to unseal previously sealed files. The rule incorporates by reference the procedures for sealing files in the trial courts set forth in MCR 8.119(F). The amendment also contains additional language unique to cases pending in the Court of Appeals.

The staff comment is not an authoritative construction by the Court.



I, CORBIN R. DAVIS, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

June 28, 2005 2 Anger Anger
Deputy Clerk